

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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L&L WINGS,

Plaintiff,

-v.-

MARCO-DESTIN, INC. et al.,

Defendants.
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GABRIEL W. GORENSTEIN, UNITED STATES MAGISTRATE JUDGE

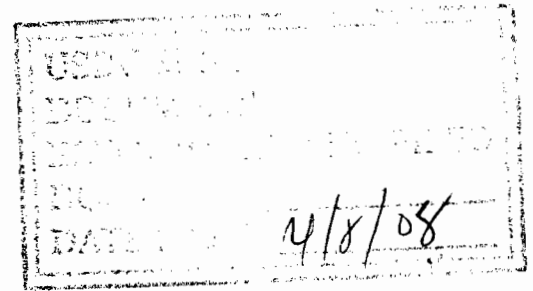
Defendants have moved for sanctions against plaintiff or its initial counsel.¹ On October 30, 2005, the Court discussed its desire to have a fruitful settlement conference. Plaintiff's counsel did not suggest at that time that his client was taking a "no compromise" position. He even sought, and obtained, the Court's directive that a certain representative of the defendants appear at the conference. The Court's order setting the conference made clear that adjournments of the conference would be freely granted. Later, when defendants sought to adjourn the conference, plaintiff objected to the postponement. Then, on the adjourned conference date, plaintiff's attorney announced at the beginning of the conference that, based on an incident that had occurred several days prior to the conference, his client would not compromise its claim in any way.

Plaintiff asserts, correctly, that it was under no obligation to take any particular settlement position. Its announcement, however, had the effect of suggesting to the Court and the opposing parties that the plaintiff had deliberately wasted everybody's time. The plaintiff asserts that subsequent events at the conference, occurring during a private session with the undersigned, show that it did not behave improperly.

However one might characterize the announcement made by plaintiff's counsel, the Court does not believe it should subject plaintiff to sanctions inasmuch as to do so would require exploring what subsequently occurred at conference in a manner that would be inconsistent with the confidentiality of that conference. Accordingly, the Court exercises its discretion not to issue a sanction. Nonetheless, it is hoped that plaintiff will exercise better judgment in the future.

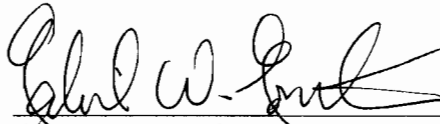
In sum, the motion for sanctions (Docket # 42) is denied.

¹ Subsequent to the events at issue, additional counsel have appeared for plaintiff.



SO ORDERED.

Dated: New York, New York
April 7, 2008



GABRIEL W. GORENSTEIN
United States Magistrate Judge